

BEFORE THE ARKANSAS CEMETERY BOARD

IN THE MATTER OF

BAXTER CREMATORY AND
MEMORIAL GARDENS, INC.
MOUNTAIN HOME, ARKANSAS

Order Approving Application
to Amend Permit to Construct a
Mausoleum Pursuant to
Ark. Code Ann. § 20-17-1011

ORDER NO. C-05-042-05-OR01

ORDER

A meeting of the Arkansas Cemetery Board ("Board") was held on December 19, 2005. Considered at the meeting was a request by Baxter Crematory and Memorial Gardens, Inc., Mountain Home, Arkansas ("licensee"), to amend their permit, to allow the construction of a mausoleum upon the grounds of Baxter Crematory and Memorial Gardens Cemetery ("Cemetery").

FINDINGS OF FACT

1. The licensee owns and operates a perpetual care cemetery at Mountain Home, Arkansas, within the meaning of the Cemetery Act for Perpetually Maintained Cemeteries, Act 352 of 1977, as amended ("Act"), and is subject to the Act and Board.
2. On October 28, 2005, the licensee filed an application with the Board for an amendment to their operating permit to allow the construction of a mausoleum.
3. The application contained the following documents and information:
 - A. A \$100.00 filing fee.

- B. A statement reflecting that the proposed mausoleum will contain 96 crypts and 48 niches.
 - C. A statement that a deposit of \$100.00 for each paid-in-full crypt and niche will be made to the Perpetual Care Trust Fund.
 - D. A letter of credit from Pulaski Bank, Little Rock, Arkansas, in the amount of \$125,512.00 reflecting the Board as beneficiary.
 - E. A statement that, should the need for an entombment arise prior to the completion of the mausoleum, the family will have the option of a full refund of all money paid toward the mausoleum, or it may be applied to a regular ground burial at the Cemetery, or a temporary crypt will be furnished at the Cemetery.
 - F. Copies of the sales contract and conveyance document to be used.
 - G. A statement reflecting that a direct sales force will be used.
 - H. A map showing the proposed location of the mausoleum in the Cemetery.
 - I. A statement that the construction of the mausoleum proposed in the application will be started within three (3) years and completed within five (5) years from the date of approval of the application by the Board.
4. In response to a request by Securities Examiner Ryan J. Drake, Pulaski Bank increased the amount of the Letter of Credit to \$156,890.00, reflecting one hundred twenty-five percent (125%) of the construction cost. Pulaski Bank also added language to the Letter of Credit required in Ark. Code Ann. § 20-17-1011 (b)(4)(H)(ii)(b). The amended Letter of Credit was submitted on December 16, 2005.

5. There was no statement from the State Department of Health approving the plans for the mausoleum at the time of the meeting.
6. Subsequent to the meeting, the State Department of Health provided approval of the plans for the mausoleum.

CONCLUSIONS OF LAW

7. Ark. Code Ann. § 20-17-1011 requires that whenever any cemetery subject to the Act proposes to amend its permit for the construction of a mausoleum, or similar structure, the cemetery shall file an application for such an amendment of the permit with the Board and the Board must approve the application.
8. Ark. Code Ann. § 20-17-1011 requires an application to construct a mausoleum or similar structure of a cemetery that is subject to the Act contain certain specific information and documents.

OPINION

9. The licensee has filed the information required in Ark. Code Ann. § 20-17-1011 (b)(1) through § 20-17-1011 (b)(5), excepting Item Number 5 in the Findings of Fact.
10. As of the date of the meeting, the licensee had not filed a report of inspection of the plans for construction of a mausoleum by the State Health Department as required in Ark. Code Ann. § 20-17-1011 (b)(4)(B).

11. Subsequent to the meeting, the licensee has filed a report of inspection of the plans for construction of a mausoleum by the State Health Department as required in Ark. Code Ann. § 20-17-1011 (b)(4)(B).

ORDER

IT IS THEREFORE ORDERED that the amendment of the permit for construction of a mausoleum be approved.

IT IS FURTHER ORDERED that the Letter of Credit written by Pulaski Bank, Little Rock, Arkansas, be approved.

IT IS FURTHER ORDERED that the licensee shall deposit no less than \$40.00 to the Cemetery's Perpetual Care Trust Fund for each paid-in-full crypt and niche sold in the mausoleum.

DATED THIS 30th DAY OF DECEMBER, 2005.

ARKANSAS CEMETERY BOARD


BETTY FINLEY
Chairperson


MICHAEL B. JOHNSON
Secretary